



New Jersey

Department of

Labor and Workforce Development

Division of Wage and Hour Compliance

PREVAILING WAGE



Division of Wage and Hour Compliance

Public Contracts

Contractor Registration

General Enforcement

Wage Collection

Hearing & Review





The New Jersey Prevailing Wage Act (*N.J.S.A. 34:11-56.25 et seq.*)

Public Policy:

“It is declared to be the public policy of this State to establish a prevailing wage level for workmen engaged in public works in order to safeguard their efficiency and general well being and to protect them as well as their employers from the effects of serious and unfair competition resulting from wage levels detrimental to efficiency and well-being.”

Definitions

“Public Body” means the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey and any instrumentality or agency of the State of New Jersey or of any of its political subdivisions.

“Public Work” means construction, reconstruction, demolition, alteration, custom fabrication*, repair work, or maintenance work**, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body.



* “Custom fabrication” refers to the fabrication of ductwork, piping, or mechanical insulation.

** “Maintenance work” can include a maintenance-related project, if that project exceeds the scope of work and capabilities of in-house maintenance personnel, requires the solicitation of bids, and has an aggregate value exceeding \$50,000.

“Public work” also means construction, reconstruction, demolition, alteration, custom fabrication, or repair work, done on any property or premises, whether or not the work is paid for from public funds, if, at the time of the entering into of the contract **the property or premises is owned by the public body** or:

- (a) At least 55% of the property or premises is leased by a public body, or is subject to an agreement to be subsequently leased by the public body; and
- (b) The portion of the property or premises that is leased or subject to an agreement to be subsequently leased by the public body measures more than 20,000 square feet.

Other types of jobs covered by Prevailing Wage

Private projects with **financial involvement** (loans, loan guarantees, expenditures, investments, tax exemptions or other incentives or financial assistance) from the following agencies:

- NJ Economic Development Authority (NJ EDA)
- Casino Reinvestment Development Authority (CRDA)
- New Jersey Educational Facilities Authority (NJEFA)
- New Jersey Healthcare Facilities Financing Authority (NJHCFFA)
- County Improvement Authorities
- New Jersey Housing and Mortgage Finance Agency (HMFA)
- Urban Enterprise Zone Program (UEZ)

Other types of jobs covered by Prevailing Wage (continued)

BPU-Assisted Work: Private projects with financial assistance from the NJ Board of Public Utilities.

- threshold equal to municipality
- assistance provided directly to homeowners is exempt

Utility Work: Work contracted for by a utility company.

Not Covered by NJ Prevailing Wage Act

- ☛ Snow Plowing Contracts
- ☛ Security Guard Contracts
- ☛ Lawn Maintenance
- ☛ Tree Work not associated with construction/renovation/repairs
- ☛ Non-working Project Supervisors

Prevailing Wage Threshold



- A. For a municipal governing body (i.e. city council or town council), the job is covered by Prevailing Wage if the amount of the contract exceeds **\$14,187**. This amount adjusts every 5 years, based on the Consumer Price Index (it will be adjusted next on July 1, 2014).

- B. For all other public bodies (including municipal boards of education and other municipal agencies), the job is covered if the amount exceeds **\$2,000**.

Prevailing Wage threshold for
maintenance or service agreements

The threshold applies to the **cumulative amount** of all work covered by the agreement, over the life of the agreement.



Sole Proprietors and Owner/Operators

There are no exemptions for sole proprietors or owner/operators:

- They must be Registered.
- They must pay themselves the applicable rate.
- They must be listed on the Certified Payrolls.



Other Employers

The following types of companies are subject to all aspects of Prevailing Wage and Contractor Registration:

Truckers – Trucking contractors (including owner/operators) hauling materials to or from a Prevailing Wage job, when hired by a construction contractor.

Surveyors – Surveyors who are hired by a contractor to perform on-site work, during the course of a Prevailing Wage job.

Fabrication Shops – Shops involved in the fabrication of ductwork, piping, or mechanical insulation for a Prevailing Wage job.

Contractor Registration



The **Public Works Contractor Registration Act** (*N.J.S.A. 34:11-56.48 et seq.*) requires contractors to register with the New Jersey Department of Labor and Workforce Development prior to **bidding on** or **engaging in** public works.

Contractor Registration

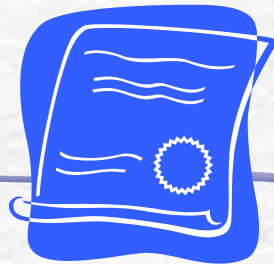
- Subcontractors named in a bid must be registered at the time the bid is submitted.
- All other subcontractors must be registered at the time they are hired (the time that the subcontract agreement is signed).



Contractor Registration Application Form

Common Mistakes

- Failing to acknowledge prior violations.
- Failing to list ownership interest in another firm.
- Failing to acknowledge prior violations of another firm in which there is an interest.



Wage Determinations

- A Wage Determination is a “package” of rates.
- Rates for the building trades (carpenters, electricians, plumbers, etc) are found in the county rate packages. Rates for sitework (equipment operators, landscape laborers, etc) are found in the ‘Statewide’ rate package.
- The Wage Determination in effect on the award date of the **prime contract** (contract with the public body) applies for the duration of the project. A contractor is responsible for paying the rates, and any increases, listed in that Wage Determination.
- Rates can vary by craft and by county.

**NEW JERSEY DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
PREVAILING WAGE RATE DETERMINATION**

County - CAMDEN

Craft: Plumber

PREVAILING WAGE RATE

	05/12/11	05/01/12	05/01/13
Foreman	W43.47 B32.99 T76.46	W0.00 B0.00 T78.01	W0.00 B0.00 T79.76
Journeyman	W39.52 B32.99 T72.51	W0.00 B0.00 T74.06	W0.00 B0.00 T75.81

Expiration Date: 04/30/2014

Craft: Plumber

APPRENTICE RATE SCHEDULE

INTERVAL	PERIOD AND RATES									
	35%	40%	50%	55%	60%	65%	70%	75%	80%	85%
6 Months										
Benefits	21.28	22.17	23.98	24.89	25.77	26.69	27.58	28.50	29.38	30.30

Ratio of Apprentices to Journeymen - 1:4

Craft: Plumber

COMMENTS/NOTES

FOREMAN REQUIREMENTS:

- On any job having 2 or more Journeyman Plumbers, 1 must be designated a Foreman.
- There must be 1 additional Foreman for every 10 Plumbers on the job.

The regular workday is 8 hours, between 7:00 AM and 4:30 PM.

SHIFT DIFFERENTIALS:

- Shift work must run for a minimum of 5 consecutive workdays.
- When 2 shifts are worked, the second shift shall receive 8 hours pay for 8 hours of work.
- When 3 shifts are worked, the second shift shall receive 8 hours pay for 7.5 hours of work, and the third shift shall receive 8 hours pay for 7 hours of work.
- The rate of pay for all shift work shall be an additional 15% of the hourly rate, per hour.

OVERTIME:

The first 4 hours in excess of 8 per day, or before or after the regular workday that are not shift work, Monday through Friday, and the first 12 hours on Saturdays shall be paid at time and one-half the regular rate, inclusive of benefits. Hours in excess of 12 per day, and all hours on Sundays and holidays shall be paid at double the regular rate, inclusive of benefits.

RECOGNIZED HOLIDAYS: New Year's Day, Presidents' Day, Memorial Day, July 4th, Labor Day, Presidential Election Day, Veterans' Day, Thanksgiving Day, Christmas Day. Sunday holidays will be observed the following Monday.

**NEW JERSEY DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
PREVAILING WAGE RATE DETERMINATION**

County - CAMDEN

Craft: Roofer

PREVAILING WAGE RATE

	08/16/11
Foreman (5 workers or less)	W32.75 B25.95 T58.70
Foreman (6 workers or more)	W33.25 B25.95 T59.20
Journeyman	W30.75 B25.95 T56.70

Expiration Date: 04/30/2012



Certified Payrolls

- Contractors must submit Certified Payrolls for every pay period that they are working on the public works project.
- Certified Payrolls must be submitted to the public body (the agency that the work is being performed for). Submitting them to a general contractor **does not satisfy the requirements of the law.**
- Certified Payrolls must be submitted each pay period, within 10 days of the payment of wages.

General Contractor's Responsibility

- Make sure subcontractor is not debarred
- Make sure subcontractor is registered when hired
- GC can be held responsible for violations of subcontractor
- Must allow access to jobsite, for site inspections

Complaints



Complaints are received from:

- Unions (business agents, organizers, etc)
- Non-Union Contractors' Associations
- Competitors (unsuccessful bidders)
- Workers (employees, ex-employees)
- Anonymous sources (usually workers)



Site Inspections

An investigator
visits the jobsite,
observes and interviews workers,
completes site report(s),
obtains records from the public body,
opens files.

Audits

Appointment letter or records request is sent to company.

Payroll inspection is performed:

- Certified Payrolls and general payrolls
- cancelled paychecks
- fringe benefit documentation
- apprenticeship agreements
- company information
- subcontract agreement



Common Problems found during audits

- ▶ Non-Bona Fide Apprentices
- ▶ Apprentice-to-Journeyman Ratios
- ▶ Benefit Credit Amount
- ▶ Overtime Calculation
- ▶ Recordkeeping
- ▶ Contractor Registration

Processing of Files

Wage audit is calculated

Narrative is prepared

File reviewed by supervisor

Assessment letter mailed to employer



APPEALS

Settlement Conference

(Department level with Hearing Officer)

Formal Hearing

(Office of Administrative Law)



Wage Collection

An employee (or former employee) can file a claim for wages they feel they are owed.

Employees and employers provide testimony and evidence to support their arguments.

The wage limit is \$30,000.00.



General Enforcement

Construction Industry Independent Contractor Act:

- Prohibits the improper classification (misclassification) of an employee as an independent contractor.
- Establishes penalties for misclassification – depending on the amount of the contract, it can be a crime of the second degree.
- Applies to both public and private construction.

QUESTIONS?

